

76-5-402. Rape.

(1) A person commits rape when the actor has sexual intercourse with another person without the victim's consent.

(2) This section applies whether or not the actor is married to the victim.

(3) Rape is a felony of the first degree, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the rape the defendant caused serious bodily injury to another; or

(ii) at the time of the commission of the rape, the defendant was younger than 18 years of age and was previously convicted of a grievous sexual offense; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(a) or (c).

(6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 81, 2013 General Session